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**Working Party on Rail Transport**

**Group of Experts towards Unified Railway Law**

**Seventh session**

Geneva, 3–4 April 2014

Item 4 of the provisional agenda

**Identifying an appropriate management system for unified railway law based on the experience of international organizations in the field of the railway transport.**

**System of management of SMGS and CIM**

**Submitted by the Committee of the Organisation for Co-operation between Railways**

<i>No</i>		<i>SMGS</i>	<i>CIM</i>	<i>CONCLUSIONS</i>
<i>1</i>	<i>2</i>	<i>3</i>	<i>4</i>	<i>5</i>
1.	Document Status	International agreement. OSJD Members are Government executive bodies that manage the railway transport or the central bodies of railways that are authorized by their Governments.	Appendix B to the Convention concerning International Carriage by Rail (COTIF). Protocol 1999 for the approval of the modified COTIF is subject to ratification, adoption or approval.	
2.	Parties	Ministries that manage the railways	COTIF Member States.	
3.	Objective	To organize transport of goods in international through rail traffic.	To establish uniform law in the field of contract of international carriage of goods in international through traffic by rail, including complementary carriage by means of other modes of transport, with being subject to a single contract.	
4.	Scope	Under the SMGS provisions, transport of goods in international through freight traffic by rail shall be carried out between the stations indicated in § 2 of Article 3 of SMGS Agreement by means of the consignment notes stipulated in the SMGS Agreement and only in the network of the railways that are Parties to the SMGS Agreement.	The CIM Uniform Rules shall apply to all the contracts on the carriage of goods by rail with charges to be paid, if the station of acceptance of goods for carriage and the station of delivery of goods are located in two different CIM Member States. The application shall be independent of the place of residence or place of employment and nationality of the parties which conclude a contract.  The CIM Uniform Rules shall also be applied to those contracts on the carriage of goods by rail with charges to be paid, if the station of acceptance of goods and the station of delivery of goods are located in two different countries, one of which is a Member State, and if the contracting parties agree that the contract shall be subject to CIM Uniform Rules.  If international carriage being a subject to a single contract includes, together with	

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			cross-border carriage by rail, carriage by road and carriage by inland waterways inside a Member State, then CIM Uniform Rules shall be applied.	
			If international carriage being a subject to a single contract includes, together with carriage by rail, carriage by sea or cross-border carriage by inland waterway, then CIM Uniform Rules shall be applied, if carriage by sea or carriage by inland waterway is implemented on the routes which are listed in § 1 of Article 24 of the COTIF Convention.	
5.	Depositary	OSJD Committee.	Secretary General of OTIF.	
6.	Functions of Depositary	In accordance with Article 77 Part VII of the Vienna Convention on the Law of Treaties of 23 May 1969.	In accordance with Article 77 Part VII of the Vienna Convention on the Law of Treaties of 23 May 1969.	
7.	Functions	Chairman of OSJD Committee:  The Chairman of OSJD Committee shall organize activities of the Committee and shall be responsible for the proper execution of his functions before the OSJD Ministers Conference and Conference of OSJD General Directors.  The OSJD Committee is the executive body of the Organization of OSJD.  The functions of the Chairman of OSJD Committee and functions of the OSJD Committee are marked off and stipulated by Rules of procedure of the OSJD Committee.	Secretary General of OTIF:  The Secretary General shall assume the functions of Secretariat of the Organisation. The functions of Secretary General are regulated by COTIF.	
8.	Unit of account	Swiss Franc.	SDR (special drawing rights created by International Monetary Fund).	

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9.	Amendments and Modifications:		
	- are adopted:	The SMGS Agreement and Manual to SMGS Agreement may be amended or modified by mutual agreement of the railways being Parties to the SMGS Agreement in writing via OSJD Committee or by means of negotiations to be conducted at a meeting of OSJD Commission on Transport Law, followed by the approval of their draft decisions by OSJD Committee and further submission to Ministers Conference for information.	By General Assembly or Revision Committee.
	- the right to put forward proposals:	Parties to SMGS Agreement.	Member States or General Secretary.
	- terms:	1. SMGS Agreement and Manual to SMGS Agreement may be amended or modified upon the expiry of not less than five years dating from the latest date of the amendments' entry into force but Annex II which can be modified upon the expiry of not less than two years dating from the latest date of the amendments' entry into force.  2. As to individual, critical issues requiring modification of SMGS and Manual for SMGS, on which one cannot adhere to the five-year term, such a modification is possible by meeting the following conditions:  - proposals on modification will be considered, if it requires not less than one-third of railways which are parties to SMGS;	Not specified.

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		<p>- modifications drafted by OSJD Commission on Transport Law shall be adopted by OSJD Committee, followed by their further submission to the Ministers Conference for its information.</p> <p>- management: Management of SMGS Agreement is entrusted to OSJD Committee (OSJD Commission on Transport Law). The Commission shall hold its meetings and shall be composed of delegations from the Parties to SMGS Agreement. Proposals on modifications and amendments to be made in SMGS Agreements shall be submitted to OSJD Committee and to all the Parties to SMGS Agreement at the same time not later than two months before a meeting of the Commission on Transport Law.</p> <p>The Commissions' activity in relation to amendments and modifications to be made in SMGS Agreement shall be carried out by experts and it includes two phases:</p> <ul style="list-style-type: none"> <li>- consideration of proposals on amendments and modifications to be made in SMGS at expert meetings;</li> <li>- consideration of proposals on amendments and modifications to be made in SMGS at the meetings of OSJD Commission on Transport Law.</li> </ul> <p>- the validity of meetings:</p> <ol style="list-style-type: none"> <li>1. The Commission's meeting is valid, if there are not less than two thirds of Parties to SMGS present at the meeting.</li> <li>2. The expert meeting is valid, if there is not less than one third of Parties to SMGS present at the meeting.</li> </ol>	<p>Management of CIM is entrusted to Secretary General of OTIF.</p> <p>All the submitted proposals on amendments to be made in CIM shall be considered by Revision Committee. In case of necessity, experts shall be involved or working groups shall be established.</p> <p>The Secretary General submits proposals on modifications of CIM to the Members of the Revision Committee and Observers not later than two months before the meeting is convened.</p> <p>The Revision Committee shall take decisions on modifications in CIM Uniform Rules or shall draft papers for making decision at the General Assembly.</p> <ol style="list-style-type: none"> <li>1. The General Assembly shall be valid, if the majority of Member States are present at the Assembly.</li> <li>2. The Revision Committee is composed of representatives from Member States. The meeting of the Committee is valid, if the</li> </ol>	

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			majority of its Members are present at the meeting.	
	- voting:	At all the phases of the drafting process and further during the adoption of final decisions, the unanimity principle shall be applied.	<p>1. The decisions of the General Assembly shall be adopted by the majority of votes of Member States present at the Assembly.</p> <p>2. Provided that not less than one third of Members of the Revision Committee are present at the time of voting, its decisions shall be adopted by the majority of votes of the Member States present.</p>	
	- entry into force:	<p>1. The date of entry into force of amendments and modifications in SMGS and Manual for SMGS, adopted upon the expiry of not less than five years dating from the latest date of their entry into force, and the date of entry into force of amendments and modifications in Annex II, adopted upon the expiry of not less than two years dating from the latest date of their entry into force, shall be established by the OSJD Committee.</p> <p>2. As to individual, critical issues requiring modification of SMGS and Manual for SMGS, on which one cannot adhere to the five-year term, the adopted amendments shall enter into force on the first of July of the year to follow, if within two months following their transmission to all the railways which are Parties to SMGS, no objections are submitted by any railways which are Parties to SMGS.</p>	<p>1. Amendments in CIM Uniform Rules, adopted by the General Assembly, shall enter into force following twenty months after their approval by a half of Member States which have not declared that they will not apply fully the CIM Uniform Rules, for all Member States except those which made their declarations before their entry into force, according to which they did not approve the amendments, and those which declared that they would not apply fully the CIM Uniform Rules.</p> <p>2. For all Member States, CIM Uniform Rules amendments adopted by the Revision Committee shall enter into force on the first day of the twelfth month dating from the month of the notification on the amendments, sent by Secretary General to Member States.</p> <p>3. Member States may submit their objections within the term of four months dating from the time of notification. In case of objections received from one fourth of Member States, the amendment shall not</p>	

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10.	Declarations and Reservations	<p>1. Railways the countries of which are at the same time Parties to other international agreements, may implement freight traffic between themselves, based on these agreements.</p> <p>2. Railways of Hungary apply the rules of SMGS only for the carriage of goods implemented across the border with Ukraine.</p> <p>3. Reservations as to non-application of individual provisions of SMGS are not stipulated.</p>	<p>enter into force. Member States which have submitted their objections against the decision within the established period of time shall suspend the full application of the respective Annex for communication with Member States or between them from the moment of the decisions' entry into force.</p> <p>1. Any State that signed the convention on international through transport of goods by rail, compared with CIM Uniform Rules, may declare by sending its declaration on accession to the COTIF Convention that it will apply CIM Uniform Rules only for the carriage of goods implemented on the portion of infrastructure located in its territory. This portion of railway infrastructure must be defined and connected with the railway infrastructure of a Member State.</p> <p>2. Any Member State may declare, at any time, that it will not apply in their entirety certain Appendices to the Convention. Furthermore, reservations as well as declarations not to apply certain provisions of the Convention itself or of its Appendices shall only be allowed if such reservations and declarations are expressly provided for by the provisions themselves.</p> <p>3. The reservations and declarations shall be addressed to the Depositary. They shall take effect at the moment the Convention enters into force for the State concerned. Any declaration made after that entry into force shall take effect on 31 December of the year following the declaration. The Depositary</p>	

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			shall give notice of this to the Member States.
11.	Lists of Services	None	<p>The maritime and inland waterway services mentioned in the first items of CIM Uniform Rules, which are used for transport that is subject to a single contract of carriage, in addition to carriage by rail, are included in the List of maritime and inland waterway services of CIM Uniform Rules. The Secretary General shall notify all the Member States about the inclusion or exclusion of a certain service. The maritime and inland waterway services shall come within the purview of the COTIF Convention upon the expiry of one month dating from the day of notification by the Secretary General about its inclusion in the List. Such a service ceases to be under the effect of the COTIF Convention upon the expiry of three months dating from the day of notification by the Secretary General about its exclusion from the List, except the already commenced services that shall be completed.</p>
12.	Accession	<p>Membership of OSJD shall be granted by Ministerial Conference, based on the declarations or statements to apply for membership and as advised by OSJD Committee in view of the Conference's proposals.</p> <p>It shall be acceptable to admit new members in OSJD Organization by means of approbation in writing of all the OSJD member countries provided that no objection against the accession of a new member to</p>	<p>Accession to the COTIF Convention shall be open to any country on the territory of which rail infrastructure is operated.</p> <p>A State wishing to accede to the COTIF Convention shall address an application to the Depository. The Depository shall notify it to the Member States.</p> <p>The application shall be deemed to be accepted three months after the notification, unless five Member States lodge objections with the Depository. The Depository shall,</p>



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		OSJD is submitted by any of them within two months dating from the day on which OSJD Committee transmitted the declaration on accession.	without delay, notify the applicant State as well as the Member States accordingly. The accession shall take effect on the first day of the third month following that notification.  In the event of opposition from at least five Member States within the established period the application for accession shall be submitted to the General Assembly for decision.	
13.	Suspension of Membership	Unforeseen.	A Member State may request, without denouncing the COTIF Convention, a suspension of its membership of the OTIF Organisation, when international rail traffic is no longer carried out on its territory for reasons not attributable to that Member State.  The Administrative Committee shall take a decision about a request for suspension of membership. The request must be lodged with the Secretary General at least three months before a session of the Administrative Committee.  The suspension of membership shall enter into force on the first day of the month following the notification by the Secretary General of the decision of the Administrative Committee. The suspension of membership shall terminate with the notification by the Member State that international rail traffic on its territory is restored. The Secretary General shall, without delay, give notice of it to the other Member States.	

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14.	Denunciation	The declaration on denouncement and separation from OSJD shall be transmitted to the Chairman of OSJD Committee within six months before the end of the calendar year. In this case the membership will cease on the first of January of the following year.	The COTIF Convention may be denounced at any time.  Any Member State which wishes to denounce the Convention shall so inform the Depository. The denunciation shall take effect on 31 December of the following year.	
15.	Working languages	The Chinese and Russian languages. In case of the different interpretation of the texts clarifications as to the texts shall be made in the Russian language.	The English, German and French languages. In case of the different interpretation of the texts clarifications as to the texts shall be made in the French language.	
16.	OSJD bodies:			
	- OSJD governing bodies	OSJD Ministers Conference is the highest OSJD governing body. OSJD Ministers Conference meets, as a rule, once a year.  General Directors Conference is the governing body at the level of railways (railway companies) and it meets, as a rule, once a year.		
	-OSJD working bodies:	OSJD Commissions, Joint OSJD/other international organizations groups, Working groups, Meetings of OSJD representatives and other bodies established by decision of Ministers Conference and Conference of General Directors.		
	-Decision on establishment:	Ministers Conference and Conference of General Directors, in the field of their activities, adopt decisions on the establishment and number of Working groups and other bodies, specifying their structure, program work, tasks, duration and rules of procedure.		

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	Commissions and Permanent Working Groups:	<p>Commissions are composed of delegations heads of which are appointed by OSJD Members.</p> <p>Chairman of Commission is appointed from amongst OSJD Committee's experts by the governing bodies' decision on the distribution of positions of Chairmen and Experts of Commissions and Experts of Permanent Working Groups between OSJD Members. Experts delegated to OSJD Committee as OSJD Members' representative compose the working body of Commission.</p>		
	Temporary Working Groups:	Commission may propose establishing a Temporary Working Group of experts. This proposal shall be approved by the Meeting of plenipotentiary representatives of OSJD Ministers Conference and Members of General Directors Conference (authorized representatives) of OSJD Railways.		
17.	OSJD Committee:	OSJD Committee is the executive body of OSJD. Each Member of OSJD shall delegate its representative to OSJD Committee. The Distribution of positions for OSJD Committee's leadership, Chairmen and Experts in OSJD Working bodies was adopted for the period of 1 July 2010 – 30 June 2014 by the XXXVIII session of OSJD Ministers Conference (15-18 June 2010, Prague, Czech Republic).		
	-structure:	<ul style="list-style-type: none"> <li>-OSJD Committee's leadership;</li> <li>-Working body of Ministers Conference;</li> <li>-Working body of General Directors Conference;</li> </ul>		

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		-Editorial staff of OSJD Bulletin journal and administrative-technical and general service units.		
	- OSJD Committee's leadership:	OSJD Committee is headed by Chairman of OSJD Committee. The Committee's leadership is composed, in addition to its Chairman, of Deputies Chairman and Secretary of the Committee, by which of whom respective structural units of the Committee are headed.		
	- Chairman of OSJD Committee:	Chairman of OSJD Committee assigned from amongst the Committee's Members shall be appointed by OSJD Ministers Conference at the suggestion of OSJD General Directors Conference for a term of four years. A representative of Ministers Conference Member from the country hosting OSJD Committee shall be appointed as Chairman of OSJD Committee.		
	-Deputies Chairman of OSJD Committee:	Deputies Chairman of OSJD Committee assigned from amongst the Committee's Members shall be appointed by OSJD Ministers Conference at the suggestion of OSJD General Directors Conference for a term of four years.		
	-Secretary of OSJD Committee	Secretary of OSJD Committee shall be appointed by OSJD General Directors Conference for a term of four years.		
18.	OTIF bodies:		General Assembly, Administrative Committee, Revision Committee, RID Committee of Experts, Rail Facilitation Committee, Committee of Technical Experts, Secretary General. General Assemble may adopt a decision on setting up other ad hoc committees.	

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	-General Assembly:		General Assembly is composed of representatives from Member States. The Secretary General convenes the General Assembly every three years at the request of one third of Member States or administrative Committee. Besides the Convention stipulates other cases of calling the General Assembly.	
	-Administrative Committee:		The Administrative Committee is composed of one third of Member States. Members of the Administrative Committee and a deputy member for each of them, for a period of three years shall be appointed by the General Assembly. The General Assembly also elects the Member State which is to chair the Administrative Committee. An equitable geographical distribution is taken into account when the Committee's composition is defined for a term of three years. A deputy member that becomes a member of the Administrative Committee in the course of a period must be designated as a member of the Committee for the period which follows.	
	-Committees:		In principle, all the Member States are represented in the Committees. In case the Revision Committee, RID Committee of Experts or Committee of Technical Experts, following some discussions, take decisions within their competences on modifying the Appendices to the Convention, then Member States having made their declarations as to respective Appendices are not member members of the respective Committee. The Secretary General will convene the Committees, on his own	

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			initiative, at the suggestion of five Member States or Administrative Committee.	
		-Secretary General:	The Secretary General will fulfill the functions of the Secretariat of the Organisation. The Secretary General is elected by the General Assembly for a period of three years that may be recommenced twice at most. The General Assembly's chairmanship, Administrative Committee's chairmanship and functions of the Secretary General shall be entrusted to representatives from different Member States.	
		-Organisation's staff:	Rights and obligation of the Organisation's staff are defined in the staff regulation that is made by the Administrative Committee.	